

1 THE HONORABLE BENJAMIN H. SETTLE
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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE WESTERN DISTRICT OF WASHINGTON
10 AT SEATTLE

11 LESLIE WHITE,

12 Plaintiff,

13 vs.

14 ETHICON, INC.

15 Defendant.

16 Case No. 2:20-cv-00952-BHS

17 STIPULATION AND ORDER FOR
18 DISMISSAL OF CERTAIN CLAIMS

19 Pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii) and this Court's Order (Dkt. No.
20 68), the parties stipulate to the voluntary dismissal *with prejudice* of the following counts in this
21 action, with each side to bear their own costs:

- 22 1. Count II: Strict Liability - Manufacturing Defect;
23 2. Count IV: Strict liability – Defective Product;
24 3. Count IX: Negligent Misrepresentation;
25 4. Count X: Negligent Infliction of Emotional Distress;
5. Count XI: Breach of Express Warranty;
6. Count XII: Breach of Implied Warranty;
7. Count XIII: Violation of Consumer Protection Laws;

STIPULATION AND ORDER FOR DISMISSAL
OF CERTAIN CLAIMS
(Case No. 2:20-cv-00952-BHS) - 1

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8. Count XIV: Gross Negligence; and

9. Count XV: Unjust Enrichment.

Subject to Defendants' reservation of their right to seek leave to file additional motions, the parties agree that the following claims will remain pending in this case:

1. Count I: Negligent Design Defect;
2. Count III: Strict Liability – Failure to Warn;
3. Count V: Strict Liability – Design Defect;
4. Count VI: Common Law Fraud;
5. Count VII: Fraudulent Concealment;
6. Count VIII: Constructive Fraud;
7. Count XVII: Punitive Damages; and
8. Count XVIII: Discovery Rule and Tolling.

In light of the parties' stipulation to the dismissal of Counts II¹, IV, IX, X, XI, XII, XIII, XIV, and XV, the parties agree that Defendants' Motion for Partial Summary Judgement (Dkt. Nos. 35-36) is now moot.

DATED this 3rd day of December, 2020.

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¹ Although Plaintiff is not pursuing a manufacturing defect claim, Plaintiff's Response requests the ability to present evidence on Ethicon's manufacturing process and the raw materials used in the manufacture of the Gynecare TVT products. (Dkt. No. 38 at 2-3).

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ORDER

The Court GRANTS the stipulated dismissal of certain claims as set forth above.

IT IS SO ORDERED.

DATED this 4th day of December, 2020



BENJAMIN H. SETTLE

United States District Judge

United States District Judge

**STIPULATION AND ORDER FOR DISMISSAL
OF CERTAIN CLAIMS**
(Case No. 2:20-cv-00952-BHS) - 4

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